

MONTANA LEGISLATIVE HISTORY

Chapter 367 1997

Bill HB 521 S _____ Original bill & history ✓ c

H. Committee on State Admin

Hearing Date(s) 2/17 _____ c

2/17 _____ c

_____ c

_____ c

Date Out _____ c

S. Committee on State Admin

Hearing Date(s) 3/13 _____ c

3/17 _____ c

_____ c

_____ c

Did this bill originate in an interim committee? _____ Yes _____ No

Committee _____

Report _____

LEGISLATIVE HISTORIES SINCE 1997

The scope and depth of legislative committee minutes varies by year and by committee. If you would like additional information about a hearing, you may want to determine whether the hearing was recorded. In addition, some recent floor debates were also recorded. For information on accessing or purchasing these recordings, contact the Historical Society Archives at 406-444-4774.

If you have concerns regarding the format of the enclosed committee minutes or the recordings of the hearings, it is suggested that you contact your state legislators.

3/18	HEARING		
3/20	TABLED IN COMMITTEE		
4/04	COMMITTEE REPORT—BILL CONCURRED AS AMENDED		
4/05	2ND READING CONCURRED	50	0
4/07	3RD READING CONCURRED	48	1
	RETURNED TO HOUSE WITH AMENDMENTS		
4/10	2ND READING AMENDMENTS CONCURRED	88	3
4/11	3RD READING CONCURRED AS AMENDED	93	3
4/17	SIGNED BY SPEAKER		
4/17	SIGNED BY PRESIDENT		
4/18	TRANSMITTED TO GOVERNOR		
4/28	SIGNED BY GOVERNOR		
	CHAPTER NUMBER 404		
	EFFECTIVE DATE: 10/01/97		

HB 520 INTRODUCED BY SWANSON LC1256 DRAFTER: KURTZ

ALLOW THE FISH, WILDLIFE, AND PARKS COMMISSION TO ESTABLISH A
FEE NOT TO EXCEED \$10 FOR A BLOCK MANAGEMENT AREA HUNTING
PERMIT

2/11	INTRODUCED		
2/11	FIRST READING		
2/11	REFERRED TO FISH, WILDLIFE & PARKS		
2/11	FISCAL NOTE REQUESTED		
2/15	FISCAL NOTE RECEIVED		
2/15	FISCAL NOTE PRINTED		
2/19	REVISED FISCAL NOTE RECEIVED		
2/19	REVISED FISCAL NOTE PRINTED		
3/06	HEARING		
3/11	TABLED IN COMMITTEE		
4/05	MISSED DEADLINE FOR 71ST DAY TRANSMITTAL		
	DIED IN COMMITTEE		

HB 521 INTRODUCED BY RYAN LC1255 DRAFTER: PETESCH

REVISE THE GENERAL RULES FOR DETERMINING RESIDENCE

2/11	INTRODUCED		
2/11	FIRST READING		
2/11	REFERRED TO STATE ADMINISTRATION		
2/17	HEARING		
2/18	COMMITTEE REPORT—BILL PASSED		
2/19	2ND READING PASSED	89	11
2/20	3RD READING PASSED	90	10
	TRANSMITTED TO SENATE		
2/21	FIRST READING		
2/21	REFERRED TO STATE ADMINISTRATION		
3/13	HEARING		
3/18	COMMITTEE REPORT—BILL CONCURRED AS AMENDED		
3/26	2ND READING CONCURRED	50	0
3/27	3RD READING CONCURRED	47	3
	RETURNED TO HOUSE WITH AMENDMENTS		
4/11	2ND READING AMENDMENTS CONCURRED	94	0
4/12	3RD READING CONCURRED AS AMENDED	88	7
4/15	SIGNED BY SPEAKER		
4/17	SIGNED BY PRESIDENT		
4/18	TRANSMITTED TO GOVERNOR		
4/23	SIGNED BY GOVERNOR		
	CHAPTER NUMBER 367		
	EFFECTIVE DATE: 10/01/97		

1
2 INTRODUCED BY House BILL NO. 521

3
4 A BILL FOR AN ACT ENTITLED: "AN ACT REVISING THE GENERAL RULES FOR DETERMINING
5 RESIDENCE; PROVIDING THAT A CLAIM OF RESIDENCE FOR ANY PURPOSE ESTABLISHES A PERSON'S
6 RESIDENCE FOR ALL PURPOSES; CLARIFYING THAT A CHANGE OF RESIDENCE MAY BE MADE ONLY
7 BY THE ACT OF REMOVAL JOINED WITH INTENT TO REMAIN IN ANOTHER PLACE; AND AMENDING
8 SECTION 1-1-215, MCA."

9
10 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

11
12 **Section 1.** Section 1-1-215, MCA, is amended to read:

13 **"1-1-215. Residence -- rules for determining.** Every person has, in law, a residence. In determining
14 the place of residence, the following rules are to be observed:

15 (1) It is the place where ~~one~~ a person remains when not called elsewhere for labor or other special
16 or temporary purpose and to which ~~he~~ the person returns in seasons of repose.

17 (2) There ~~can~~ may only be one residence. If a person claims a residence for any purpose, then that
18 location is the person's residence for all purposes unless there is a specific statutory exception.

19 (3) A residence cannot be lost until another is gained. A change of residence may be made only
20 by the act of removal joined with intent to remain in another place.

21 (4) The residence of ~~his~~ a minor's parents or, if one of them is deceased or they do not share the
22 same residence, the residence of the parent having legal custody or, if neither parent has legal custody,
23 the residence of the parent with whom ~~he~~ the minor customarily resides is the residence of the unmarried
24 minor ~~child~~. In case of a controversy, the district court may declare which parental residence is the
25 residence of an unmarried minor ~~child~~.

26 (5) The residence of an unmarried minor who has a parent living cannot be changed by either ~~his~~
27 the minor's own act or that of ~~his~~ the minor's guardian.

28 (6) The residence can be changed only by the union of act and intent."

29 -END-

HOUSE STATE ADMINISTRATION

Page 5

- BILL NO - REFERRED - HEARING - OTHER CONSIDERATION DATES - EXECUTIVE ACTION/DATE/VOTE - REREFERRED - DATE READ

HB0459	KASTEN, BETTY LOU	2/05	2/14	EMPLOYER CONTRIBUTION TO EMPLOYEE DEFERRED COMPENSATION PLANS	TABLED ON 03/07	VOTE: 15-1		
HB0460	HARRINGTON, DAN	2/05	2/12	REQUIRE CONSUMER REPORTING AGENCIES TO PROVIDE FREE CREDIT REPORT ANNUALLY	PASS AS AMENDED 2/17	VOTE: 13-3		2/18
HB0468	GILLAN, KIM	2/06	2/17	AUTHORIZE SEC. OF ST. TO DEVELOP/IMPLEMENT ELEC. FILING SYSTEM; REQ'TS	PASS AS AMENDED 2/17	VOTE: 16-0		2/18
HB0469	BRAINARD, MATT	2/06	2/13	REQUIRE SCHOOL LEVY AND FUNDING PROPS TO ELECTORS NO MORE THAN TWICE YEARLY	PASS AS AMENDED 2/17	VOTE: 13-3		2/18
HB0483	MOOD, DOUG	2/07	2/17	REVISE REVOLVING FUNDS FOR WATER AND SEWER PROJECTS	PASS AS AMENDED 2/19	VOTE: 16-0		2/20
HB0496	FELAND, GARY	2/08	2/13	ALLOW CERTAIN COUNTY HOSPITAL/REST HOME EMPLOYEES TO NOT BECOME PERS MEMBERS	PASS AS AMENDED 2/18	VOTE: 14-2		2/18
HB0499	BOHLINGER, JOHN	2/08	2/14	CREATE OFFICE OF STATE COORDINATOR FOR ETHNIC AFFAIRS	PASS AS AMENDED 2/19	VOTE: 14-2	APPROPRIATIONS	2/20
HB0501	WAGNER, DOUGLAS	2/08	2/12	REVISE BALLOT AVAILABILITY IN SPECIAL BOND ELECTIONS; REVISING NOTICE	DO PASS 2/17	VOTE: 14-2		2/18
HB0505	BEAUDRY, HALEY	2/08	2/14	REDUCING VESTING IN MUNICIPAL POLICE RETIREMENT SYSTEM TO 5 YEARS	DO PASS 2/14	VOTE: 12-2		2/15
HB0510	BRAINARD, MATT	2/10	2/14	REVISING THE MONTANA HOME GUARD, PROVIDING FOR ORGANIZATION AND TRAINING	VOTE:			
HB0511	GALVIN, PATRICK	2/10	2/13	ALLOW COUNTY TO CHARGE REVENUE DEPT. FOR SPACE IN COURTHOUSE	PASS AS AMENDED 2/14	VOTE: 13-0	APPROPRIATIONS	2/15
HB0521	RYAN, WILLIAM	2/11	2/17	REVISING THE GENERAL RULES FOR DETERMINING RESIDENCE	DO PASS 2/17	VOTE: 12-3		2/18

5

MINUTES

MONTANA HOUSE OF REPRESENTATIVES 55th LEGISLATURE - REGULAR SESSION

COMMITTEE ON STATE ADMINISTRATION

Call to Order: By CHAIRMAN MATT DENNY, on February 17, 1997, at 8:00 a.m., in room 420.

ROLL CALL

Members Present:

Rep. Matt Denny, Chairman (R)
Rep. Matt Brainard, Vice Chairman (Majority) (R)
Rep. Antoinette R. Hagener, Vice Chairman (Minority) (D)
Rep. Darrel Adams (R)
Rep. Haley Beaudry (R)
Rep. Harriet Hayne (R)
Rep. George Heavy Runner (D)
Rep. Sam Kitzenberg (R)
Rep. Norm Mills (R)
Rep. Doug Mood (R)
Rep. William Rehbein, Jr. (R)
Rep. Trudi Schmidt (D)
Rep. Dorothy C. Simpson (D)
Rep. Bill Whitehead (D)

Members Excused: Rep. Tim Dowell and Rep. Allan Walters.

Members Absent: None.

Staff Present: Sheri Heffelfinger, Legislative Services Division
Keri Burkhardt, Committee Secretary

Committee Business Summary:

Hearing(s) & Date(s) Posted: HB 468 (2/7/97), HB 483
(2/9/97), HB 521 (2/12/97), HB
527 (2/13/97)

Executive Action: HB 61, HB 174, HB 468, HB 521,
HB 460, HB 469, HB 501.

EXECUTIVE ACTION ON HB 61

Amendments: hboo6102.ash

Motion: REP. HEAVY RUNNER MOVED DO PASS.

{Tape: 1; Side: a; Approx. Time Count: 7}

Motion/Vote: REP. REHBEIN MOVED TO AMEND. Motion carried 16-0.

{Tape: 1; Side: a; Approx. Time Count: 7.1.}

Motion: REP. DENNY MOVED AMENDMENT #1. Motion denied 3-13.
Rep. Beaudry, Rep. Kitzenberg, and Rep. Whitehead voted yes.
{Tape: 1; Side: a; Approx. Time Count: 38.7.}

Motion: REP. DENNY MOVED AMENDMENT #2.
{Tape: 1; Side: a; Approx. Time Count: 39.3.}

Vote: Motion denied 0-16.
{Tape: 1; Side: a; Approx. Time Count: 40.4.}

Motion: REP. DENNY MOVED AMENDMENT #3. Motion carried 13-3.
Rep. Hayne, Rep. Heavy Runner, and Rep. Rehbein voted no.
{Tape: 1; Side: a; Approx. Time Count: 40.7}

Motion: REP. DENNY MOVED AMENDMENT #4.
{Tape: 1; Side: a; Approx. Time Count: 41.9}

Vote: Motion denied 0-16.
{Tape: 1; Side: a; Approx. Time Count: 42.1.}

Motion: REP. HAYNE MOVED DO PASS AS AMENDED.
{Tape: 1; Side: a; Approx. Time Count: 42.4.}

Vote: Motion carried 14-2. Rep. Heavy Runner and Rep. Rehbein
voted no.
{Tape: 1; Side: a; Approx. Time Count: 43.7.}

HEARING ON HB 521

Opening Statement by Sponsor: REP. BILL RYAN, H.D. 44.
{Tape: 1; Side: b; Approx. Time Count: .1.}

Questions From Committee Members and Responses:
{Tape: 1; Side: b; Approx. Time Count: 4.8 through 18.}

Joe Kerwin, Deputy of Elections and Legislative Bureau,
Department of Administration.
{Tape: 1; Side: b; Approx. Time Count: 7.6.}

Robert Turner, Exam Bureau Chief, Department of Revenue.
{Tape: 1; Side: b; Approx. Time Count: 9.5.}

Closing by Sponsor: REP. RYAN closes.
{Tape: 1; Side: b; Approx. Time Count: 18.}

HEARING ON HB 527

Opening Statement by Sponsor: REP. BILL RYAN, H.D. 44.
EXHIBIT 1.
{Tape: 1; Side: b; Approx. Time Count: 18.8.}

Informational Testimony:

Rep. Mood provides amendments for the committee at this time.

EXHIBIT 8.

{Tape: 2; Side: a; Approx. Time Count: 26.1.}

Questions From Committee Members and Responses:

{Tape: 2; Side: a; Approx. Time Count: 27.4 through 40.3.}

Closing by Sponsor: REP. MOOD closes.

{Tape: 2; Side: a; Approx. Time Count: 40.3.}

HEARING ON HB 468

Opening Statement by Sponsor: REP. KIM GILLAN, H.D. 11.

{Tape: 2; Side: b; Approx. Time Count: 5.2.}

Proponents' Testimony:

Angela Fultz, Chief Deputy, Secretary of State.

{Tape: 2; Side: b; Approx. Time Count: 6.3.}

Questions From Committee Members and Responses:

{Tape: 2; Side: b; Approx. Time Count: 9.5.}

Closing by Sponsor: REP. GILLAN closes.

{Tape: 2; Side: b; Approx. Time Count: 19.1.}

EXECUTIVE ACTION ON HB 521

Motion: REP. HEAVY RUNNER MOVED DO PASS.

{Tape: 2; Side: b; Approx. Time Count: 43.3.}

Vote: REP. DENNY CALLED THE QUESTION. Motion carried 12-3.

Rep. Adams, Rep. Mills, and Rep. Simpson voted no.

{Tape: 3; Side: a; Approx. Time Count: 4.4.}

EXECUTIVE ACTION ON HB 460

Amendments: hb046001.ash

Motion: REP. KITZENBERG MOVED DO PASS.

{Tape: 3; Side: a; Approx. Time Count: 21.9.}

Motion: REP. MILLS MOVED TO AMEND.

{Tape: 3; Side: a; Approx. Time Count: 33.2.}

Vote: REP. REHBEIN CALLED THE QUESTION. Motion carried 15-1.

{Tape: 3; Side: a; Approx. Time Count: 37.5.}

Motion: REP. KITZENBERG MOVED TO AMEND.

{Tape: 3; Side: b; Approx. Time Count: 1.5.}

SENATE STATE ADMINISTRATION

- BILL NO - REFERRED - HEARING - OTHER CONSIDERATION DATES - EXECUTIVE ACTION/DATE/VOTE - REREFERRED - DATE READ

HB0389	SIMON, BRUCE	STRENGTHEN THE REQUIREMENTS FOR AN EMERGENCY STATE AGENCY RULE	3/03	3/13	3/14	CONCUR AS AMENDED 3/17	VOTE: 4-2	3/20
HB0394	GRINDE, LARRY HAL	REGULATE LOBBYING BY STATE AGENCIES	3/03	3/12	3/14 3/17 3/24	CONCUR AS AMENDED 3/27	VOTE: 4-2	3/28
HB0422	GILLAN, KIM	ELIMINATE REQ'T FOR ORIGINAL OF FACSIMILE DOCS. TO BE FILED WITH SEC. OF ST.	2/19	3/10		CONCUR AS AMENDED 3/10	VOTE: 6-0	3/11
HB0430	SIMON, BRUCE	INCREASE BENEFITS IN THE FIREFIGHTERS' UNIFIED RETIREMENT SYSTEM	3/03	3/20		CONCUR AS AMENDED 3/25	VOTE: 6-0	3/26
HB0439	SCHMIDT, TRUDI	EXPAND YOUTH VOTING TO ALLOW STUDENTS TO VOTE AT OTHER THAN POLLING PLACE	2/19	3/11		CONCUR 3/11	VOTE: 6-0	3/12
HB0468	GILLAN, KIM	AUTHORIZE SEC. OF ST. TO DEVELOP/IMPLEMENT ELEC. FILING SYSTEM; REQ'TS	3/04	3/12		CONCUR AS AMENDED 3/14	VOTE: 6-0	3/17
HB0496	FELAND, GARY	ALLOW CERTAIN COUNTY HOSPITAL/REST HOME EMPLOYEES TO NOT BECOME PERS MEMBERS	3/04	3/17		CONCUR 3-18	VOTE: 5-0	3/20
HB0499	BOHLINGER, JOHN	CREATE OFFICE OF STATE COORDINATOR FOR ETHNIC AFFAIRS	3/27	4/08		TABLED ON 04/11	VOTE: 4-2	
HB0501	WAGNER, DOUGLAS	REVISE BALLOT AVAILABILITY IN SPECIAL BOND ELECTIONS; REVISING NOTICE	2/21	3/11		CONCUR 3/11	VOTE: 6-0	3/12
HB0505	BEAUDRY, HALEY	REDUCING VESTING IN MUNICIPAL POLICE RETIREMENT SYSTEM TO 5 YEARS	3/04	3/19		CONCUR 3/25	VOTE: 6-0	3/26
HB0521	RYAN, WILLIAM	REVISING THE GENERAL RULES FOR DETERMINING RESIDENCE	2/21	3/13	3/14	CONCUR AS AMENDED 3/17	VOTE: 5-0	3/18
HB0534	WELLS, JACK	MAKE STATE LIABLE FOR INTEREST/ATTORNEY FEES IN JUDGMENT INVOLVING CONTRACT	3/06	3/13	3/14	CONCUR AS AMENDED 3/19	VOTE: 6-0	3/20

MINUTES

MONTANA SENATE 55th LEGISLATURE - REGULAR SESSION COMMITTEE ON STATE ADMINISTRATION

Call to Order: By **CHAIRMAN DON HARGROVE**, on March 13, 1997, at 10:00 a.m., in Room 331

ROLL CALL

Members Present:

Sen. Don Hargrove, Chairman (R)
Sen. Kenneth "Ken" Mesaros, Vice Chairman (R)
Sen. Vivian M. Brooke (D)
Sen. Delwyn Gage (R)
Sen. Fred Thomas (R)
Sen. Bill Wilson (D)

Members Excused: None

Members Absent: None

Staff Present: David Niss, Legislative Services Division
Mary Morris, Committee Secretary

Please Note: These are summary minutes. Testimony and discussion are paraphrased and condensed.

Committee Business Summary:

Hearing(s) & Date(s) Posted: HB 389, HB 521, HB 534
Executive Action: HB 361

EXECUTIVE ACTION ON HB 361

Amendments: HB036101.adn (EXHIBIT 1)

Discussion:

Chairman Hargrove explained the amendments. They have dealt with 5, 7, 8, 9, 11 and 14 and the rest are to be considered jointly.

Mr. Niss explained that the effects of paragraphs 3 and 4 of the amendment is that this would exempt from the posting requirements, household pesticides that are approved by the Department, pursuant to 88-212, for household use. Commercial pesticides are the only pesticides which would be required to be posted for their application. Six is connected to the permanent signing, if regular application is required. Paragraph 10 deletes the date of application from the posting requirement. Paragraph 12 substitutes the phone number from which the person

SENATE STATE ADMINISTRATION COMMITTEE

March 13, 1997

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concerned about the application of pesticides, can get other information. Paragraph 13 deletes the phone number of the building operator. Paragraph 15 amends the record retention date and requires that the records concerning the particular application be maintained for two years rather than five years. Paragraph 17 gives a local governmental unit three months to amend any regulation or ordinance that does not comply with the requirements in the bill after it becomes effective.

Motion/Vote: SEN. KEN MESAROS moved to ADOPT HB036101.adn. The motion CARRIED UNANIMOUSLY.

Discussion:

CHAIRMAN DON HARGROVE explained that he talked to Pam Langley, who represented the applicators, and she pointed out the only conflict between the bill and the amendments with an integrated pesticide management program, is the notice requirement. The current bill, at page 1, line 24, requires notice 24 hours before application. The reason is that it would be hard to time all of the steps which need to be taken in an integrated test management system with the 24 hour pre-notice requirement. The amendment, in paragraph no. 7, would delete that and insert "at the time of the application".

SEN. DELWYN GAGE remarked that maybe this conflicted with (4) in the bill which states that a local government may not adopt standards that are more stringent than the standards established in (2) and (3). This says they can adopt standards more or less stringent. Is a public agency different than local government?

CHAIRMAN HARGROVE felt there was a conflict between (4) and the amendment which REP. HARPER proposed.

SEN. MESAROS stated he spoke with REP. HARPER about the necessity for that language in the bill and reminded him that it was unnecessary because if the bill is signed into law, unless there is an exception provided in the bill, a local government unit can adopt a local ordinance that is either less or more stringent.

Motion/Vote: SEN. MESAROS moved that HB 361 BE CONCURRED IN AS AMENDED. The motion CARRIED with SEN. GAGE OPPOSED.

HEARING ON HB 521

Sponsor: REP. BILL RYAN, HD 44, GREAT FALLS

Proponents: Jeff Miller, Department of Revenue

Opponents: None

Opening Statement by Sponsor:

REP. BILL RYAN, HD 44, Great Falls, introduced HB 521. This bill is an act revising the general rules for determining residency providing that a claim of residency for any purpose establishes a person's residency for all purposes. The Department of Revenue has an amendment and he is in support of the amendment.

Proponents' Testimony:

Jeff Miller, Department of Revenue, presented their amendments, (EXHIBIT 2), and stated their support of the bill with amendments.

Opponents' Testimony: None**Questions From Committee Members and Responses:**

SEN. GAGE commented there could be a situation wherein during the year a person would change his decision as far as Montana residency is concerned. He could file a tax return as a non-resident and then decide in August to become a Montana resident and buy a hunting license as a resident of Montana. Would they just take his word for that?

Mr. Miller explained they would be looking at a part-year resident return for that year. It takes the combination of action and intent to abandon a person's residence. It is somewhat subjective. Intent issues are things such as: Where do you vote? Where does your family reside? Where do you buy hunting and fishing licenses? Where do you bank? It tends to be case specific. This bill with amendment would suggest that if a person is going to claim residency in Montana for voting, hunting or fishing, they are a resident for all other purposes, too.

SEN. GAGE had concerns with (3), line 19 and 20, which stated that a change of residence may be made only by the act of removal, joint with intent to remain in another place. If people spend six months in New Mexico and six months in Montana, where is their residence?

Mr. Miller explained it will take something to demonstrate that you have actively abandoned your Montana residence and established it somewhere else.

CHAIRMAN HARGROVE asked if this would be policed by the Department of Revenue by a computer record match?

Mr. Miller clarified that they look at things such as, did the person file a federal return from a Montana address, where do they bank, etc. Where you are temporarily absent, that should not complicate your life because you have not taken other actions

to demonstrate that you are intending to abandon your Montana residence.

CHAIRMAN HARGROVE, referring to the fiscal note, questioned whether there would be a significant amount of effort required by the Department of Revenue for policing and also if there was income revenue tax involved?

Mr. Miller did not see any increased administrative costs for the Department. This bill says that if you indicate you are a Montana resident for any purpose, that is evidence to say that you are a resident for all purposes, which means income. It will certainly produce more revenue, because they are constantly surfacing the non-filers.

SEN. BILL WILSON asked what a person needed to have physically to declare residency in Montana? Does a P. O. Box suffice?

Mr. Miller explained they asked for permanent address, social ties, religious ties, etc.

SEN. WILSON posed the scenario where he told the Department that he has a P. O. Box in Great Falls, Mt. and he has sold his property and is not renting anything and is in Bolivia.

Mr. Miller clarified it does not require a physical presence to be a Montana resident. A person can't acquire a new residence until he/she abandons the old. This isn't black and white.

SEN. WILSON questioned the income tax situation of the above person.

Mr. Miller explained that a resident of Montana is required to report all income from all sources and pay tax in Montana. To the extent that they paid a tax in another jurisdiction, we will allow a credit. They will not double tax.

SEN. MESAROS questioned whether there was consistent criteria between agencies as identifying Montana residents? -

Mr. Miller remarked that the language as proposed is allowing statutory exceptions. There are exceptions for instance in the university system to say what constitutes an in-state resident versus a non-resident for purposes of tuition. They are very consistent with Fish, Wildlife and Parks and trade information back and forth.

SEN. MESAROS asked how much time would be allocated by his Department for this legislation?

Mr. Miller explained they had between 8 and 10 individuals in their compliance section who do nothing but chase down under-reported income and non-filers. They do computer match cross-references. Approximately 25% of their exam effort is spent on

cross-match activities. It is productive. They have assessed about \$6 million from their compliance effort specific to all kinds of compliance issues.

SEN. GAGE raised concern with (3) which stated that a change of residence may be made only by the act of removal joined with intent to remain in another place. This would put the burden of proof on the taxpayer.

Joe Kerwin, Secretary of State's Office, clarified that Title 13 in election laws has a similar provision which states that there are too many residences for election purposes. They would have no problem with taking that language out. Current law, (6) states that residence can be changed by the union of act and intent.

Closing by Sponsor:

REP. RYAN stated they are trying to stop the practice of buying a fishing license as a non-resident, voting as a resident, and then stating you are a non-resident when licensing a vehicle. If you say you are a resident, you are a resident.

{Tape: 1; Side: A; Approx. Time: 10:33 a.m.; Comments: End of Tape 1, Side A.}

HEARING ON HB 534

Sponsor: **REP. JACK WELLS, HD 27, BOZEMAN**

Proponents: **Herb Richards, construction contractor**
Carl Schweitzer, Montana Contractors Assoc.
Dean Bjerke, Diamond Construction
Gary Hoovestel, CEO of Greenway Enterprises

Opponents: **None**

Opening Statement by Sponsor:

REP. JACK WELLS, HD 27, BOZEMAN, introduced HB 534. According to current law, the state is not liable for interest in certain kinds of contracts. He felt the state should be liable for interest in certain cases, particularly when there is a court judgment involved and the judgment is against the state. This could cause a problem for the state involving contracts for retirement systems. He didn't intend that when he drafted the bill. An example, pointed out to him this morning, was of a person who retired some years ago and elected not to take their retirement. Now they have applied for their retirement. His bill would make the state liable for interest in that retirement contract and that would amount to a sizeable amount of money. An amendment has been recommended, and he agrees with it. It would add a third section after (2). It would state that the

DATE 3-13-97

15

Amendments to House Bill 521
Senate - First Reading Version

Prepared for Representative Ryan
For the State Administration Committee

SENATE STATE ADMIN.

EXHIBIT NO. 2

DATE 3-13-97

BILL NO. HB 521

1. Page 1, lines 17 & 18
Following: "claims"
Strike: "a residence"
Insert: "Montana residency"
Following: "then"
Strike: "that location"
Insert: "Montana"

Reason for Amendment #1

The addition of the words, "Montana residency" will specify that when a person claims Montana as his residence, and not another state, that his residence for all purposes is Montana. Presently, the bill could be interpreted to mean that if a person claims another state as his/her residence then that state is their residence even if all other factors point to Montana residency.

MINUTES

MONTANA SENATE 55th LEGISLATURE - REGULAR SESSION

COMMITTEE ON STATE ADMINISTRATION

Call to Order: By **CHAIRMAN DON HARGROVE**, on March 17, 1997, at 10:00 a.m., in Room 331

ROLL CALL

Members Present:

Sen. Don Hargrove, Chairman (R)
Sen. Kenneth "Ken" Mesaros, Vice Chairman (R)
Sen. Vivian M. Brooke (D)
Sen. Delwyn Gage (R)
Sen. Fred Thomas (R)
Sen. Bill Wilson (D)

Members Excused: None

Members Absent: None

Staff Present: David Niss, Legislative Services Division
Mary Morris, Committee Secretary

Please Note: These are summary minutes. Testimony and discussion are paraphrased and condensed.

Committee Business Summary:

Hearing(s) & Date(s) Posted: HB 90, HB 91, HB 496 3/11/97
Executive Action: HB 389 BCIAA; HB 521 BCIAA

HEARING ON HB 496

Sponsor: REP. GARY FELAND, HD 88, Shelby

Proponents: Judy Richman, Employee Toole County Hospital and Nursing Home
Jerry Morasko, Administrator Toole County Hospital
Jim Ahrens, President of Montana Hospital Assoc.

Opponents: Linda King, Public Employers Retirement Board

Opening Statement by Sponsor:

REP. GARY FELAND, HD 88, Shelby, introduced HB 496, which allows employees of county hospitals and rest homes in certain classes of counties to become exempt from PERS.

This enforcement section provides for extremely different penalties and also for enforcement by the Commissioner of Political Practices. If a person files a complaint with the Commissioner of Political Practices, he has no discretion to decline to prosecute.

The amendments delete the reporting requirement for state lobbying.

EXECUTIVE ACTION ON HB 521

Amendments: HB052102.adn (EXHIBIT 2)

Discussion:

Mr. Niss stated that the effect of the Department of Revenue amendment would have been to severely limit the application by preventing the new residency determination, in lines 19 and 20, from being used in all those local government purposes. We require "residents" within counties and within other political subdivisions for all manner and types.

This amendment places some limits on the new method of determining residency in lines 17 and 18. The Department was concerned that if a person claims a residence for any purpose, could be used against them. If someone had a drivers license and fishing license from Alaska, he could then claim not to be a Montana resident for purposes of taxes. The amendment would limit this to claiming a residence in Montana for any purpose.

Motion/Vote: CHAIRMAN HARGROVE moved to ADOPT HB052102.adn.
The motion CARRIED UNANIMOUSLY.

Discussion:

Referring to the underlined language on 19 and 20, Mr. Niss remarked that the issue there is whether there is a conflict between the new language in (3) and existing language in (6). The problem is (6) is not limited to any one act.

SEN. GAGE explained that the intent of the bill is if a person claims to be a resident of Montana by purchasing a resident fishing license or by registering to vote, etc., he is a resident for all purposes. Currently this is handled by intent. This gives the Department of Revenue the ability to require that person to file as a resident taxpayer.

SEN. WILSON commented that when he campaigns people tell him they don't vote here. People at Malmstrom may own a home and buy a fishing license in Montana. What is going to catch them?

CHAIRMAN HARGROVE remarked that a lot of people stretch the rules and are not residents of Montana. SEN. WILSON commented that when this person bought a hunting license and said he was a resident, the Department's computers would cross-reference that

the person said he was a resident, even though he is not. He may vote in Colorado. This bill would have enough of a hammer to make him pay taxes in Montana. **CHAIRMAN HARGROVE** explained the other side of that is he will pay \$800 rather than \$20 for his hunting license. He felt that military stations in Montana are allowed residency in Montana.

Mr. Niss felt there may be a specific provision applicable to persons in military service who have a residence to vote in other states, but have a drivers' license in Montana.

SEN. WILSON asked what would be typical of the person in Gallatin County? Are they people who have a business in California?

CHAIRMAN HARGROVE said that was very possible. He has friends who live there most of the year who explain to him that they pay their property taxes and live here most of the time, shouldn't they at least be able to get an inexpensive hunting license.

SEN. THOMAS stated what these people don't do is they don't pay state income taxes. They will become residents in states that do not have income taxes.

SEN. BROOKE felt our voting residency is conducive to helping people have more access to vote. There is a large student population in her district. This is totally different for residency to get in-state tuition. This is two different things. Access to voting implies that they are residents.

Mr. Niss explained that military personnel stationed in Montana aren't allowed to buy their licenses as residents unless when they entered service their home of record is in Montana. **SEN. THOMAS** asked if someone on Malmstrom who was not a resident of Montana prior to entering the service and he registered in Great Falls to vote, could that be construed to be an act in determining his residence status? **Mr. Miller** stated he was not real clear on voter requirements. The active duty military person at Malmstrom would be taxed for income tax purposes by their state of original domicile. If they are able to register to vote that would create some confusion.

SEN. BROOKE questioned if they are a resident of Montana, would they pay state income tax? **Mr. Miller** explained that active duty military is not taxed in Montana. If they are from Montana and are stationed in Montana, they are not taxed.

SEN. THOMAS commented that retirement is. So they do not pay a state income tax. **Mr. Miller** stated that **REP. RYAN** was frustrated with regard to Fish and Game, and licensing of vehicles. That was the reason for this legislation. They came forward with their amendment because they didn't appreciate the difficulties created for some local jurisdictions. The amendment the committee just adopted will address their concerns as well as local concerns.

SEN. WILSON asked if this bill would increase revenues? Mr. Miller stated this will be one more tool. This is a subjective method of weighing intent.

Motion: SEN. GAGE moved to AMEND HB 521.

Discussion:

SEN. GAGE explained that he would strike the new language on lines 19 and 20.

Vote: The motion to AMEND HB 521 CARRIED UNANIMOUSLY.

Motion/Vote: SEN. BROOKE moved that HB 521 BE CONCURRED IN AS AMENDED. The motion CARRIED UNANIMOUSLY.

{Tape: 1; Side: B; Approx. Time: 11:41 a.m.; Comments: None.}

EXECUTIVE ACTION ON SR 12

Motion/Vote: SEN. THOMAS moved that SR 12 BE ADOPTED. The motion CARRIED UNANIMOUSLY.

COMMITTEE DISCUSSION - HB 496

Steve Browning remarked that the question was raised about county hospitals and nursing homes. Both Sheridan and Ennis are hospital districts, but are not county districts. The employees of those facilities are not in PERS. There is relatively little impact. Maybe six or so may be affected. Ennis is non-profit, which became a hospital district because they get a three-mill levy. There are about 14 hospital districts in the state.

EXECUTIVE ACTION ON HB 389

Amendments: HB038901.adn (EXHIBIT 3)

Discussion:

CHAIRMAN DON HARGROVE pointed out that this bill by REP. BRUCE SIMON has about \$6 million worth of public notice requirements with regard to rulemaking, and that there have been a number of amendments. He stated that the emergency rules is probably appropriate and, if that is, it seems that the changes to Sections 12 and 13 are still good, and that he believes that the amendments would delete everything except Sections 11, 12 and 13. David Niss stated that he has taken out Section 12, also.

CHAIRMAN HARGROVE asked Mr. Niss to explain the amendments. Mr. Niss reported that the amendments change the title and strike everything down to page 9, line 23, and leaves in current Section 11, that, with the amendment, it would now be Section 1,

ROLL CALL

DATE 3-17-97

[illegible]



SENATE STANDING COMMITTEE REPORT

Page 1 of 1
March 17, 1997

MR. PRESIDENT:

We, your committee on State Administration having had under consideration House Bill 521 (third reading copy -- blue), respectfully report that House Bill 521 be amended as follows and as so amended be concurred in.

Signed: Don Hargrove
Senator Don Hargrove, Chair

That such amendments read:

1. Title, line 5.

Following: "RESIDENCE"

Insert: "WITHIN MONTANA"

2. Title, lines 6 and 7.

Strike: "CLARIFYING" on line 6 through "PLACE;" on line 7

3. Page 1, line 17.

Following: "residence"

Insert: "within Montana"

4. Page 1, lines 19 and 20.

Strike: "A change" on line 19 through "place." on line 20

-END-

Joe Amd. Coord.
Sec. of Senate

Sen. Wilson
Senator Carrying Bill

581521SC.SRF

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UNEDITED

Amendments to House Bill No. 521
Third Reading Copy

SENATE STATE ADMIN.

EXHIBIT NO. 2

DATE 3-17-97

BILL NO. HB 521

For the Committee on State Administration

Prepared by David S. Niss
March 17, 1997

1. Title, lines 5 and 6.
Following: "RESIDENCE"
Insert: "WITHIN MONTANA" in two places

2. Page 1, line 17.
Following: "residence"
Insert: "within Montana"

HOUSE BILL NO. 521

INTRODUCED BY RYAN

A BILL FOR AN ACT ENTITLED: "AN ACT REVISING THE GENERAL RULES FOR DETERMINING RESIDENCE; PROVIDING THAT A CLAIM OF RESIDENCE WITHIN MONTANA FOR ANY PURPOSE ESTABLISHES A PERSON'S RESIDENCE FOR ALL PURPOSES; ~~CLARIFYING THAT A CHANGE OF RESIDENCE MAY BE MADE ONLY BY THE ACT OF REMOVAL JOINED WITH INTENT TO REMAIN IN ANOTHER PLACE;~~ AND AMENDING SECTION 1-1-215, MCA."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 1-1-215, MCA, is amended to read:

"1-1-215. Residence -- rules for determining. Every person has, in law, a residence. In determining the place of residence, the following rules are to be observed:

(1) It is the place where ~~one~~ a person remains when not called elsewhere for labor or other special or temporary purpose and to which ~~he~~ the person returns in seasons of repose.

(2) There ~~can~~ may only be one residence. If a person claims a residence WITHIN MONTANA for any purpose, then that location is the person's residence for all purposes unless there is a specific statutory exception.

(3) A residence cannot be lost until another is gained. ~~A change of residence may be made only by the act of removal joined with intent to remain in another place.~~

(4) The residence of ~~his~~ a minor's parents or, if one of them is deceased or they do not share the same residence, the residence of the parent having legal custody or, if neither parent has legal custody, the residence of the parent with whom ~~he~~ the minor customarily resides is the residence of the unmarried minor ~~child~~. In case of a controversy, the district court may declare which parental residence is the residence of an unmarried minor ~~child~~.

(5) The residence of an unmarried minor who has a parent living cannot be changed by either ~~his~~ the minor's own act or that of ~~his~~ the minor's guardian.

(6) The residence can be changed only by the union of act and intent."

-END-